

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

ALLA MEDVEDEVA,
Individually and on Behalf of All Others
Similarly Situated,

Plaintiff, Case No. 17 CV 5739-LB

v.

ASSISTCARE HOME HEALTH SERVICES
LLC (d/b/a PREFERRED HOME CARE OF
NEW YORK and PREFERRED HOME
CARE OF NEW YORK LLC),

Defendant.

**PLAINTIFF'S NOTICE OF MOTION
FOR PRELIMINARY APPROVAL OF
THE CLASS AND COLLECTIVE
ACTION SETTLEMENT AND
RELATED RELIEF**

PLEASE TAKE NOTICE THAT upon the parties' Final Settlement Agreement and Release (the "Settlement Agreement"), annexed as Exhibit A to the Declaration of Steven L. Wittels in Support of Plaintiff's Motion for Preliminary Approval of the Class and Collective Action Settlement and Related Relief ("Wittels Declaration"); the accompanying Memorandum of Law; and all other papers and proceedings herein, Plaintiff Alla Medvedeva hereby moves this Court under Federal Rule of Civil Procedure 23 and Rule 7.1 of the Local Civil Rules for the United States District Courts for the Southern and Eastern Districts of New York for an Order:

- (1) granting preliminary approval of the class and collective action settlement set forth in the Settlement Agreement;
- (2) conditionally certifying the following settlement class under Fed. R. Civ. P. 23(e) for settlement purposes:

All individuals who have been employed by Defendant as Home Health Care Attendants, which term shall include, but not be limited to, hourly Home Care Aides, Home Health Aides, Home Health Attendants, Home Attendants, Personal Care Aides, Personal Care Assistants, Personal Assistants Unskilled, Personal Assistants performing consumer directed personal assistance (CDPAPs), Live-in Home Health Care Attendants,

private pay Home Health Care Attendants, and all others providing home care services, at any time from September 29, 2011 through the date of preliminary approval.

- (3) conditionally certifying the following settlement collective under Section 216(b) of the Fair Labor Standards Act for settlement purposes:

All individuals who have been employed by Defendant as Home Health Care Attendants which term shall include, but not be limited to, hourly Home Care Aides, Home Health Aides, Home Health Attendants, Home Attendants, Personal Care Aides, Personal Care Assistants, Personal Assistants Unskilled, Personal Assistants performing consumer directed personal assistance (CDPAPs), Live-in Home Health Care Attendants, private pay Home Health Care Attendants, and all others providing home care services, at any time since September 29, 2014 through preliminary approval.

- (4) appointing Wittels McInturff Palikovic and Hymowitz Law Group, PLLC as Class Counsel;
- (5) approving the proposed Notice of Proposed Class Action Settlement and Final Approval Hearing and directing its distribution pursuant to the Settlement Agreement's terms;
- (6) approving the parties' proposed schedule for final settlement approval;
- (7) setting a date for the Final Fairness Hearing;
- (8) entering the proposed Order Granting Preliminary Approval (attached as Exhibit B to the Wittels Declaration); and
- (9) granting such other relief as the Court deems just and proper.

In support of this Motion, Plaintiff relies on the accompanying Memorandum of Law and the Wittels Declaration, both dated June 26, 2020, and all exhibits annexed thereto.

Dated: June 26, 2020
Armonk, New York

Respectfully submitted,

WITTELS MCINTURFF PALIKOVIC

By: /s/ Steven L. Wittels
Steven L. Wittels (SW-8110)
J. Burkett McInturff (JM-4564)
Tiasha Palikovic (TP-5697)

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